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ABSTRACT

This paper presents an overview of collective bargaining in higher education with particular emphasis on the impact of this employee relations process on student development personnel and on the students they serve. It addresses six general questions often raised concerning collective bargaining: (1) What is collective bargaining? (2) How extensive is it in higher education? (3) Who votes for it? (4) Who represents these personnel in bargaining? (5) What are the reasons for voting for bargaining in higher education? (6) What are the recent developments in collective bargaining? Also addressed are the topics of the organizing and negotiation processes. (Author/SJL)

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© STUDENT PERSONNEL AND COLLECTIVE BARGAINING:

A PRIMER

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STUDENT PERSONNEL AND COLLECTIVE BARGAINING:

A PRIMER

My role here today is to set the stage for our developmental treatment of collective bargaining in higher education with particular emphasis on the impact of this employee relations process, first on student development personnel and, secondly, on the students they serve. We represent different areas of the country because collective bargaining has developed geographically and exists today in varying stages of development. Generally, it began in the North and the East and is in advanced stages of development there, as the later speakers will describe. It then moved to the West Coast and is now coming together in the center of the country and is in the embryomic stages in most of the South and the West. (George Washington)

In working with colleagues on collective bargaining, particularly in the South and the West, it is my contention that student development personnel have avoided this topic primarily because these types of sessions have dealt only with collective bargaining specifics on the campuses that now have bargaining. This overlooks the basic needs for information needed by more than 8[illegible] per cent of our campuses from both the private and public sectors, whom I hope are represented here today. As a result a general apathy exists among student development personnel and is expressed that collective bargaining is for faculty and is of little concern to the profession.

It is our hope here to appeal to the broad spectrum of required interest in this issue from the neophyte to the individuals who are very sophisticated about bargaining parameters. In this manner we hope to explore the aspects of this issue that will have relevance for all of you and to provide opportunity for you to interact with each of us in small groups following our formal presentations in relation to your particular interests. To provide the informational base

upon which this program has been devised, I have divided my remarks into four sections as indicated on the two handouts that were distributed at the door.

CURRENT STATUS

First, in dealing with the current status of collective bargaining in higher education, I propose to provide brief answers to six general questions that are usually asked of me in collective bargaining programs.

What is collective bargaining?

Collective bargaining is a process where representatives of employers and employees determine wages, hours, and conditions of employment, which results in a written contract for a specified duration. It is an adversary process by tradition and by law. Administrators generally tend to see bargaining as an end-all to our current system of higher education and faculty and staff tend to see it as a cure-all for the problems they face. My experiences in environments both with bargaining and without it, have convinced me that neither extreme is correct.

How extensive is collective bargaining in higher education?

As you can see from the overhead, the number of campuses has increased from nine in 1968, to 335 as of last fall. Since that number changes almost daily, exact numbers are difficult to maintain. There are today over 420 institutions, including the nine university campuses of Florida that just formalized negotiations about two weeks ago. All of the campuses with bargaining represent approximately 12 per cent of all post-secondary institutions and their 100 000 faculty and staff represent over 20 per cent of the total in the country--all in a span of eight years. Finally about 90 per cent of the institutions are publicly supported and two-thirds are community colleges as represented by the shaded area.

Who votes for collective bargaining?

In a Carnegie Commission study in 1969, it was learned that 59 per cent of the respondents believed that collective bargaining processes belonged in higher education. An American Council on Education study in 1973 found this group had increased to 66 per cent, while the more recently reported Ladd-Lipsett study indicated that the proportion was now 69 per cent. When Ladd and Lipsett inquired as to whether faculty and staff would vote for a union, the group favoring the statement increased to 72 per cent.

Most of the respondents in these studies were under 35 years of age, in public institutions and in community colleges. These were not radicals who wanted to destroy their institutions, but were those who wanted recourse for what they perceived to be unfair discrimination. One significant footnote is that while a majority of faculty who favored collective bargaining were young and untenured, in actual situations on most campuses a coalition of individuals in various situations is usually responsible for the election of a bargaining agent.

Who represents these personnel in bargaining?

As indicated on the transparency there are three major organizational agents--AFT, NEA and AAUP. There are a few combinations and a significant minority represented by independently formed groups. The shaded area represents senior level institutions which reveals that the AAUP is strongest with senior level institutions, while the others are more proportionally distributed.

Why do personnel vote for bargaining in higher education?

a) Economics-- as funds grow tighter, power through bargaining is desired and while mixed results have occured, generally higher salaries do result.

b) Structural complexity-- as institutions grow larger and complex systems develop, distance is perceived and voices are lost.

c) Job security-- as these complex bureaucracies attack tenure as excessive, a need is felt to formalize this "collegial relationship among academic brothers" in a legally enforceable contract.

d) Administrative conflicts-- distant systems create more conflict and the perception of mutally exclusive goals. In such an atmosphere any administrative errors, and there have been some, give cause for conflict.

Basically, personnel want better pay and working conditions, more objectivity and due process in management practices, and co-equal power with the administration and boards in the determination of these items and other professional parameters.

What are the recent developments in collective bargaining?

a) There are increased efforts by the three bargaining agents. The NEA increased its organizing budget by 150 per cent last year and doubled it this year to $2,000,000. Albert Shanker has announced that AFT organizing efforts in higher education will be "a top priority" of his administration. Dr. Joseph Duffey has initiated a renewed effort at organizing for the AAUP.

b) There is increased effort by all public employee groups for obtaining collective bargaining rights. Efforts by such diverse groups as police, public school teachers, firefighters and county and municipal workers--numbering over 12 million that are not now covered by collective bargaining provisions--provide a wide political base for action.

c) Finally, a national collective bargaining law seems inevitable, although the timing becomes involved with political considerations that are particularly significant at this time. A national law, such as the favored Thompson Bill (H. R. 77), would preempt state and regional perogatives which has particular significance in the South and the West and in institutions that do not now have collective bargaining. Congressional determination of the federal law also is awaiting the Supreme Court's action after agreeing to review

its Wirtz v. Maryland (1967) decision on the application of the Fair Labor Standards Act to municipal employees.

ORGANIZATIONAL PROCESS

Twenty-four states now have enabling legislation which establishes the state agency to administer collective bargaining for public employees. Private institutions with annual revenues of over one million dollars are under the jurisdiction of the National Labor Relations Act (NLRA) and eligible for bargaining activity. Legislation is not legally required, but practically it is necessary to provide good faith bargaining. It is the enabling legislation and the regulating agency and its procedures that affects the internal relationships of a campus.

The process of determining the bargaining unit and the sole bargaining agent depends on the specific law, so what I am presenting is a composite of many situations and my own experiences because these laws differ currently.

First, the interest of a campus personnel must be determined formally. This is done through a petition type process, which can be a long and a personal process and which usually results in an election. The first prospective agent must gather the signatures of at least 30 per cent of the faculty and staff, which is verified by the appropriate agency in order for an election to occur. Thereafter, any prospective agent must gather 10 per cent of the signatures of faculty and staff.

Secondly, before the election, a hearing is held by the appropriate agency to determine the membership of the bargaining unit. Unit organizers want as many members as possible while the institution wants as few as possible and those that make organizational sense. It is here that the term staff is significant Collective bargaining affects all professional staff, not just faculty, but

librarians counselors advisers and student development personnel whether or not they might want to be included. Aaron's study indicated that at 73 per cent of the campuses student personnel staff were included in the faculty unit. Another decision that must be made is whether institutions with more than one campus will have a separate unit for each campus or be represented by one unit: there is strength in numbers, but differing problems on each campus.

Finally, recognition is accomplished usually through an election which is announced and held under direction of the state or federal agency. All certified prospective agents, plus a NO UNION choice appear on the ballot. Campaigning goes on in the most partisan sense and a winner is declared by a simple majority of those voting: or, if necessary, a run-off election is held between the two choices with the most votes.

All unit members are represented by the winner even if they are not members of that agency or do not vote for that agency or do not vote at all. Very few elections result in a defeat of a bargaining agent as indicated on the transparency. Also, once you have an agent it is rare that one will be decertified particularly not without a real battle and then it is done to replace the particular agent, rather than to get rid of the collective bargaining process itself, e.g., Hawaii. (GOLDA MEIR) It is important that selection of the right neighborhood, therefore, if one is chosen at all, be done rationally.

NEGOTIATION PROCESS

At this point in collective bargaining, after the agent has been selected, this highly visable process becomes quiet, but only to enable work on the contract to be accomplished. At this point also, collective bargaining can be redefined accurately as a process requiring the skills of psychology, politics, and poker. The biggest problem with bargaining is that few faculty, staff, or administrators are prepared for it. Even industrial negotiators are not prepared unless they

have had experience in the public sector.

The initial act after the winner of the election has been certified, is to select negotiating teams. The agent, then, presents a list of demands and the process continues in good faith until agreement is reached unless mediation, fact finding, or arbitration is needed to resolve an impasse. Negotiations is a process of one-up-manship. (CADILLAC)

The content of the bargaining process is wages, hours, and conditions of employment, and unless restricted by law, means that virtually anything, anything for which the union is willing to strike can be negotiated. Anything, however, is negotiable for both sides. The initial contract is especially important because it sets precedent. All previous policies and agreements, as well as operating procedures, are open for negotiation, even though most faculty and administrators believe they are starting from where they have been before bargaining began. This point is significant for management rights and for the agent's attempts to attract members.

CONSEQUENCES OF COLLECTIVE BARGAINING FOR STUDENTS AND STUDENT DEVELOPMENT PERSONNEL

Some see collective bargaining as having consequences for every phrase of life on campus, as represented by this cartoon. (CARTOON) This is a rather severe characterization, but there are important consequences of collective bargaining.

Collective bargaining is an adversary relationship and as such, regardless of the best intents of both sides to the contrary, relationships will be defined by the contract, the law, and the agency with jurisdiction in bargaining matters for a particular campus. This means that a certain rigidity will occur with regard to operating procedures. Accountability is more likely for both sides. A tendency to administer a contract as required by law often takes precedence over administering policies for people.

Consequences for Students

You may be asking what all of this has to do with students and your role with them. If bargaining controls classroom contingencies how is student input gathered in any meaningful way? If the system becomes more rigid, how can students be served effectively? If collective bargaining does lead to higher salaries--what effect does this have on tuition, on student development program financial support or for that matter on the essence of the increasing number of institutions who are accepting and operating under the philosophy of open admission and low or no tuition.

In what roles can students be most effective in a collective bargaining situation, if they are to be involved at all? As observers of the negotiating process they can exert "moral pressure" on the two sides. As Ladd and Lipset's study and the more recent experiences in Massachusetts have indicated, that role seems to be tolerated at best. Even if protected by statute, as in Montana and Oregon, the impact of the observer's role seems to be losing whatever influence it did have.

As employees students have won some rights to become negotiators, but only in relation to that role and not their roles as students. Even though some teaching assistant groups such as at the Universities of Michigan and Wisconsin, have organized and are bargaining, the National Labor Relations Board (NLRB) decision last week that unsupervised practicing interns and residents at hospitals are more students than employees, and therefore do not have collective bargaining rights. This decision may be the basis for diminishing or even destroying the students' roles as employees.

Some student efforts have been to exert pressure in a role as negotiators in a tripartite configuration, which does not exist now except on the drawing board. This model conflicts with current labor bargaining procedures and has been rejected thus far.

With the roles of observer, employee, and negotiator restricted by law and current interpretation and the lack of a stable organizational power base, in my opinion the only effective role for students is to exert themselves and conceive of themselves as consumers. If that model ever becomes widespread among students, then the effects of collective bargaining with faculty and staff will be small by comparison.

At Stockton State College (NJ), for example, student formed a student union who have negotiated a contract with the faculty union. Students won the right to evaluate the faculty, to have control of their own student fees (or at least faculty support for that position), and to support faculty in carrying out the contract, including honoring the picket lines in the case of strikes. During the strike the faculty agreed to provide reading lists and to reschedule classes to prevent any barrier to normal educational or degree progress. While the legal basis for this agreement is being questioned, a strike at the New Jersey state college system recently was the most successful at the Stockton State campus. The future plans of the student government there are to gather student tuition in escrow until a favorable contract also can be negotiated with the administration.

Consequences for Student Development Personnel

The significant question for student development personnel also resolves around roles. Are they management, labor, or student advocate? Unit determination factors, although varying, usually put chief student personnel administrators and their immediate staffs on the management side. Counselors, advisors, and personnel who interface with students have been determined to have a "community of interest" with faculty, and therefore, have been placed on the labor side of the table. Since recent reports also have indicated that students see faculty bargaining for employee benefits as a direct threat to their own interests and welfare, the role as advocate for students must be questioned.

Therein lies the dilemma--the comprehensive concept of student development cannot exist without administrative authority; it requires affiliation with faculty, and therefore, it may lose credibility with students in a collective bargaining environment.

Given this dilemma, the deans or vice presidents for student affairs and their staffs may be the only advocates for student interests. Potential roles for that purpose may occur as campus mediators among the competing groups. The role may be accomplished more effectively at other campuses as negotiators on the management team to insure that the implications for students are considered as issues become formalized in a contract. A final role would be that as consultants to students as employees or as consumers, in order to facilitate student understanding of the effects of the contract for them. In this way they can assist students in devising ways for flexibly adjusting to the system in order to preserve student programs and student rights.

CONCLUSION

In whatever role student personnel administrators may find themselves they should overcome personal feelings about the process which are evident in the mail I receive, and realize that in higher education today--students represent "the most politically convenient source of increased revenues"[1] and student development programs and their administrators represent a source of recaptured funds. Unless apathy can be overcome and student development personnel become involved actively in the collective bargaining process then we are not going to be pleased with the consequences for students or with the consequences of collective bargaining for ourselves professionally.

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[1]Bond, Linda. "Impact of Collective Bargaining on Students." In D. W. Vermilye (ed.). Lifelong Learners--A New Clientele for Higher Education: Current Issues in Higher Education. San Francisco: Jossey-Bass 1974, p. 132.

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